

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

Crl.MC.No. 4590 of 2003()

**CC.572/2001 of JUDL. MAGISTRATE OF FIRST CLASS COURT,
THALASSERY**

CRIME NO.147/06 OF DHARMADOM POLICE STATION
.....

**PETITIONER: ACCUSED NO.4 IN CRIME NO.147/96 OF DHARMADOM
----- POLICE STATION**

**NAMATH PRADEEPAN, S/O. KANNAN,
AGED 35 YEARS, ERUVATTY AMSOM, POTTANPARA,
THALASSERY TALUK.**

**BY ADV. SRI.P.K.VIJAYAN
SRI.C.D.BINISH**

RESPONDENTS: COMPLAINANT:

**S.H.O. DHARMADOM POLICE STATION,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA AT ERNAKULAM.**

BY PUBLIC PROSECUTOR

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 26/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

J.B.KOSHY, J.

Criminal M.C.No.4590 OF 2003 (C)

Dated this the 26th day of July, 2007

O R D E R

Petitioner is the accused in C.C.No.572/2001 pending before the Judicial First Class Magistrate Court, Thalassery. Earlier this case was split up from C.C.No.304/1997 charge sheeted in Crime No.147/1996. Petitioner was the 4th accused. Since petitioner was abroad, he was not found out and his case was split up and it was numbered as C.C.No.572/2001.

2. Allegation against the 4th accused were under Sections 341 and 323 read with Section 34 of the Indian Penal Code. All the other three accused were acquitted, as the prosecution was not able to prove the case. PWs.2 and 3 who were eye witnesses were disbelieved as their evidence was full of discrepancies. There was no consistency with regard to place of incident and place from where they have stated seen the incident. PW3 deposed that he did not see the incident

due to darkness and PW2 was also standing near him in the bus shelter. According to PW1, he was assaulted with hands on his chest but there was no injury on the chest. Even though acquittal of the co-accused in a case cannot be the reason for acquittal of other accused who is charge sheeted in the split up case, on the facts and circumstances of this case, I am of the view that no case is made out for continuing the proceedings. Considering the nature of findings in Annexure A2, I quash the proceedings in C.C.No.572/2001 pending against the petitioner before the Judicial First Class Magistrate, Thalassery. Accordingly this case is allowed.

J.B.KOSHY, JUDGE

prp

J.B.KOSHY

Criminal.Appeal. OF 1998

JUDGMENT

14th March, 2007